

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF

ANGELINA MARISSA GODWIN,
Petitioner/Appellee,

and

JOSEPH SHIPMAN GODWIN II,
Respondent/Appellant.

No. 2 CA-CV 2019-0154-FC
Filed June 16, 2020

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. D20172830
The Honorable Deborah Pratte, Judge Pro Tempore

AFFIRMED

Joseph Shipman Godwin II, Tucson
In Propria Persona

MEMORANDUM DECISION

Presiding Judge Staring authored the decision of the Court, in which
Chief Judge Vásquez and Judge Brearcliffe concurred.

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S T A R I N G, Presiding Judge:

¶1 Joseph Godwin appeals from an order enforcing the decree entered in the dissolution of his marriage. We affirm.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to affirming the trial court's ruling. *In re Marriage of Downing*, 228 Ariz. 298, ¶ 2 (App. 2011). After a trial in February 2019, the court entered a decree of dissolution, dissolving the Godwins' marriage and providing for an equitable division of the marital community's assets and debts. The court awarded Joseph the marital home and ordered that he had 120 days to obtain refinancing and remove Angelina from the mortgage. The decree provided that, if Joseph was unable to refinance within 120 days, the court would "revisit this issue and re-allocate that asset."

¶3 The trial court also considered the issue of spousal maintenance and found:

[Joseph] receives approximately \$3,200.00 per month in disability payments from the Veterans Administration (VA). Although he is spending all of those funds . . . he has the ability to support [Angelina] and he has not produced sufficient evidence for this Court to find that the benefits he is receiving are one-hundred [percent] (100%) and solely due to service-connected disability.

The court noted Joseph's testimony that he suffered from a mental health condition and that after his discharge from military service, he sought and received disability benefits "based on his mental health condition." But, the court "d[id] not find that these benefits are awarded solely as military service-connected," and concluded "spousal maintenance [wa]s warranted and A.R.S. § 25-530 does not prohibit an award of spousal maintenance." Accordingly, the decree granted Angelina a spousal maintenance award of \$1,000 per month starting March 1.

¶4 Joseph, however, failed to make spousal maintenance payments for three months, and Angelina subsequently petitioned the trial court to enforce the decree. At the July 2019 hearing on Angelina's petition, Joseph admitted he had not made any spousal maintenance payments and

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explained he could not afford to do so because he did not have any “disposable income.” Further, he challenged the spousal maintenance award, arguing his disability benefits were “protected” by federal and state law — specifically, 10 U.S.C. § 1413a, A.R.S. § 25-350, and *Downing*, 228 Ariz. 298. Joseph also said that despite several attempts to refinance the marital residence within 120 days, he had been unable to do so.

¶5 The trial court found Joseph had “the means to abide by the Court’s Order regarding payment of spousal maintenance and ha[d] willfully disobeyed the Order[.]” Accordingly, the court found Joseph in contempt of court and ordered him to pay \$4,000 by August, so as to make up for “what is owed up until that date to [Angelina].” The court also warned Joseph that if he did not comply, it would issue a warrant for his arrest. As to the marital residence, the court found that Joseph had failed to refinance the mortgage and remove Angelina’s name within 120 days and that he “may or may not [be] able to refinance,” as he had not provided “any documents or expert testimony to make a determination regarding that issue.” Therefore, the court ordered Joseph and Angelina to sell the marital residence and “equally divide[.]” the proceeds of the sale. This appeal followed.

Jurisdiction

¶6 A petition for special action provides the only vehicle for challenging a trial court’s contempt finding with respect to enforcing spousal maintenance. See Ariz. R. P. Spec. Act. 1(a); *Lund v. Donahoe*, 227 Ariz. 572, ¶ 16 (App. 2011) (“civil contempt adjudications may only be reviewed by means of a special action”). Here, Joseph did not seek special-action review of the contempt order. In our discretion, however, we accept special-action jurisdiction concerning the contempt finding. See *Henderson v. Henderson*, 241 Ariz. 580, ¶ 16 (App. 2017) (exercising discretion to accept special-action jurisdiction of civil contempt order). And, we have appellate jurisdiction over the court’s order requiring Joseph and Angelina to sell the marital residence and divide the proceeds of the sale pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(2).

Discussion

¶7 On appeal, Joseph argues the trial court’s spousal maintenance award “appears to be in conflict with” this court’s decision in *Downing*, 228 Ariz. 298, and the “financial inabilities of both parties preclude success in a timely sale of the marital residence” in accordance with the court’s July ruling.

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¶8 We do not have jurisdiction to review the trial court's initial spousal maintenance award, as Joseph did not timely appeal the dissolution decree.¹ See Ariz. R. Civ. App. P. 9(a) (party must file notice of appeal within thirty days of entry of judgment); *In re Marriage of Thorn*, 235 Ariz. 216, ¶ 5 (App. 2014) ("this court only acquires jurisdiction over those matters identified in a timely filed notice of appeal"). Therefore, we do not address Joseph's argument challenging the spousal maintenance award.

¶9 Further, Joseph does not argue the trial court abused its discretion in finding him in contempt for his failure to pay three months of spousal maintenance. Therefore, although we accept special-action jurisdiction, this argument is deemed abandoned and waived. See *Crystal E. v. Dep't of Child Safety*, 241 Ariz. 576, ¶¶ 5-7 (App. 2017) (we "should not attempt to analyze and decide arguments" not properly raised and argued on appeal).²

¶10 Additionally, to the extent that Joseph appears to argue the trial court erred in ordering the marital residence to be sold in its order enforcing the dissolution decree, he has not made any discernible legal argument, nor has he cited any supporting legal authority. Therefore, this argument is waived. See Ariz. R. Civ. App. P. 13(a)(7)(A) (appellant's opening brief must contain "contentions concerning each issue presented for review, with supporting reasons for each contention, and with citations of legal authorities"); *In re J.U.*, 241 Ariz. 156, ¶ 18 (App. 2016) ("We generally decline to address issues that are not argued adequately, with appropriate citation to supporting authority."); see also *Flynn v. Campbell*, 243 Ariz. 76, ¶ 24 (2017) (self-represented litigant held to same standard as attorney and not afforded special leniency).

Disposition

¶11 For the foregoing reasons, we affirm.

¹Although the dissolution decree was not made final and appealable until after Joseph filed his notice of appeal, he did not identify the dissolution decree as the subject of his appeal. The only order he identified as the subject of his appeal was the July 2019 enforcement order.

²Neither do we address Joseph's request to quash the arrest warrant issued by the trial court.